

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

KEVIN NEAL,

Petitioner,

-vs-

Case No. 3-:04-CV-266

ERNIE MOORE, WARDEN,

District Judge Thomas M. Rose

Respondent.

Chief Magistrate Judge Michael R. Merz

**DECISION AND ORDER OVERRULING KEVIN NEAL'S OBJECTIONS
TO THE MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATIONS (Doc. #17); ADOPTING THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATIONS IN THEIR ENTIRETY
DISMISSING WITH PREJUDICE PETITIONER'S PETITION AND
DENYING PETITIONER A CERTIFICATE OF APPEALABILITY AND
LEAVE TO APPEAL *IN FORMA PAUPERIS*; AND TERMINATING THE
CASE**

This case is before the Court pursuant to Petitioner Kevin Neal's Objections (doc. #17) to the Report and Recommendations of Chief Magistrate Judge Michael Merz filed March 14, 2005 (doc. #13). The Report and Recommendations address Kevin Neal's Petition for a Writ of Habeas Corpus filed on July 21, 2004. The Warden did not file objections to the Report and Recommendations and did not file a response to Kevin Neal's Objections.

As required by 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that Kevin Neal's objections to the Magistrate's Report and Recommendations are not well taken and they are hereby OVERRULED. Accordingly, the Chief Magistrate Judge's Report and Recommendations is ADOPTED in its entirety.

There is no constitutional error among the seven Grounds for Relief in Kevin Neal's Petition for a Writ of Habeas Corpus. Also, because the conclusions of the Court would not be debatable among reasonable jurists, Kevin Neal is denied a certificate of appealability and is denied leave to appeal *in forma pauperis*. The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

DONE and **ORDERED** in Dayton, Ohio, this Sixth day of February, 2006.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record